

The Resources Agency



of California

Marv D. Nichols
Secretary

California Conservation Corps • Department of Boating & Waterways • Department of Conservation
Department of Fish & Game • Department of Forestry & Fire Protection • Department of Parks & Recreation • Department of Water Resources

July 20, 1999

Mr. William (Bill) J. Lyons, Jr.
Secretary
CA Department of Food & Agriculture
1220 N Street, Suite 409
Sacramento, CA 95814

Dear Secretary Lyons:

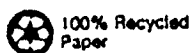
I have received your letter dated June 9, 1999 regarding the applicability of the California Environmental Quality Act (CEQA) to projects involving the acquisition of agricultural land. I share your concerns about the loss of agricultural land in the State, and recognize the importance of this valuable resource to the economy of the State and the well-being of the nation. I am writing merely to clarify a point you raised regarding the applicability of categorical exemptions under CEQA to projects consisting of the acquisition of certain agricultural lands.

As you may be aware, the Resources Agency, in conjunction with the Office of Planning & Research, is responsible for revising and updating the CEQA Guidelines. (Public Resources Code §21083) These guidelines are the interpretive regulations which clarify the CEQA process for public agencies and private project applicants who must comply with the law. By law, the Legislature requires that the Agency complete this process every two years. (Public Resources Code §21087) CEQA further authorizes me in my capacity as Secretary of Resources to adopt a list of classes of projects which have been determined not to have a significant effect on the environment and thus are categorically exempt from CEQA. (Public Resources Code §21084)

In your letter, you stated that categorical exemptions under CEQA are not applicable to projects to acquire prime farmland, unique farmland, farmland of statewide significance, or water used for agriculture. For example, under your interpretation, the acceptance of an easement or open space contract, which is

The Resources Agency 1416 Ninth Street, Suite 1311 Sacramento, CA 95814 (916) 653-5656 FAX (916) 653-8102
<http://ceres.ca.gov/cra/>

California Coastal Commission • California Tahoe Conservancy • Coachella Valley Mountains Conservancy • San Joaquin River Conservancy
Santa Monica Mountains Conservancy • Colorado River Board of California • Energy Resources, Conservation & Development Commission
State Coastal Conservancy • State Lands Commission • State Reclamation Board • Native American Heritage Commission
San Francisco Bay Conservation & Development Commission



H - 0 0 2 3 0 2

H-002302

Secretary Lyons
July 14, 1999
Page Two

categorically exempt pursuant to CEQA Guidelines §15317, would nonetheless be subject to CEQA if it involved the acceptance of an easement to maintain an existing agricultural use such as rice farming. Similarly, the sale of farmland to a public agency for waterfowl habitat, which is exempt under CEQA Guidelines §15313, would also be subject to CEQA. The law which authorizes the use of categorical exemptions contains no such prohibition on their use. (See e.g. Public Resources Code §21084 and CEQA Guidelines §15300.2) Legislation which would have essentially accomplished this objective, SB 1057 (Johannessen), failed passage in the Senate Environmental Quality Committee (1-6) on May 10, 1999.

As you know the CALFED Bay-Delta Program recently released a draft Programmatic Environmental Impact Statement/Environmental Impact Report (EIS/EIR) which reviews and evaluates the environmental impacts of the Program's proposed actions. While the program will have many important benefits to agriculture statewide, it will also have some adverse consequences for localized agriculture. The draft EIS/EIR assesses the broad programmatic and long-term actions of the Program, and will be followed by second-tier, more specific environmental documentation prior to approval of individual actions with potentially significant impacts. Because of the large scale of the Program, and the inability to fully assess site-specific impacts and mitigation measures until the more detailed projects are reviewed, this programmatic EIS/EIR treats the cumulative impacts to farmland from the Program, in combination with other projects, as significant. In addition, as described in Lester Snow's June 4, 1999 letter to you on this subject, the Program proposes a number of mitigation measures to minimize these adverse consequences. These strategies will be used in analyzing actions and applying applicable mitigation measures at a project-level review. Nonetheless, even with the application of these mitigation strategies, the fact remains that in order to achieve Program purposes, agricultural land in the Delta will likely be converted for habitat, levees, storage and/or conveyance facilities.

I hope that this letter clarifies this issue and resolves any potential misunderstanding between our two agencies. Please feel free to contact me at 653-5656 as I would be happy to discuss this matter in greater detail with you.

Sincerely,



Mary D. Nichols
Secretary of Resources